

# **AGENDA**

## **WESTMINSTER HOUSING AUTHORITY SPECIAL MEETING**

**MONDAY, January 26, 2014**

**AT 7:00 P.M.**

- 1. Roll Call**
- 2. Minutes of Previous Meeting** (December 22, 2014)
- 3. Public Hearings and New Business**
  - A. Resolution No. 60 re SWAG Cooperation Agreement and Lease of Rodeo Market Property
- 4. Adjournment**

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE WESTMINSTER HOUSING AUTHORITY  
MONDAY, DECEMBER 22, 2014, AT 8:30 P.M.

ROLL CALL

Present at roll call were Chairperson Herb Atchison, Vice Chairperson Faith Winter, and Board Members Bruce Baker, Bob Briggs, Alberto Garcia, Emma Pinter, and Anita Seitz. Also present were J. Brent McFall, Executive Director, Hilary Graham, Acting Attorney, and Carla Koeltzow, Acting Administrative Secretary.

MINUTES OF PRECEDING MEETING

Board Member Briggs moved, seconded by Baker, to approve the minutes of the meeting of November 24, 2014, as written and distributed. The motion carried unanimously.

SALE OF PROPERTIES – 7287 LOWELL BLVD AND 3630 W 73<sup>RD</sup> AVENUE

Board Member Briggs moved, seconded by Pinter, to approve the sale of the properties at 7287 Lowell Boulevard and 3630 West 73<sup>rd</sup> Avenue to the City of Westminster. The motion carried unanimously.

ADJOURNMENT

There being no further business to conduct, the meeting adjourned at 8:32 p.m.

\_\_\_\_\_  
Chairperson

ATTEST:

\_\_\_\_\_  
Acting Administrative Secretary

# WHA Agenda Item 3 A

## Agenda Memorandum

Westminster Housing Authority Meeting  
January 26, 2015



**SUBJECT:** Resolution No. 60 re South Westminster Arts Group Cooperation Agreement and Lease of Rodeo Market Property

**Prepared By:** Tony Chacon, Senior Projects Coordinator

### Recommended Board Action

Adopt Resolution No. 60 authorizing the Executive Director to execute a Cooperation Agreement and Lease Agreement, in substantially the same form as attached, with the South Westminster Arts Group (SWAG) for use of Westminster Housing Authority owned property at 3915 West 73<sup>rd</sup> Avenue, commonly known as the Rodeo Market building.

### Summary Statement

- The Westminster Housing Authority (WHA) Board owns property at 3915 W. 73<sup>rd</sup> Avenue, commonly known as the Rodeo Market building, which has been leased to the South Westminster Arts Group (SWAG) over the last several years to serve as an arts based community center and gallery.
- SWAG is proposing to enter into a Cooperation Agreement (Attachment B) with the City of Westminster and the WHA relative to promoting and conducting arts and cultural activities of benefit to South Westminster residents and businesses. The Cooperation Agreement would permit SWAG to enter into a Lease Agreement (Attachment C) with the WHA to lease the premises at 3915 W. 73<sup>rd</sup> Avenue (known as the Rodeo Market Community Arts Center) through December 31, 2015.
- Under the Lease Agreement, SWAG would pay \$10.00 per year and assume responsibility for paying water, sewer, electric and gas utility costs in full for the period of the lease. The WHA would provide financial assistance to SWAG with an \$8,000 cash grant to be distributed on a quarterly basis. This arrangement is proposed as it will assist SWAG in its pursuit of grant funds requiring evidence of a local government contribution in support of the organization, such as the Scientific and Cultural Facilities District (SCFD) grant program.
- The WHA would be responsible for paying costs associated with repairs to the facility, while SWAG will be responsible for general maintenance and upkeep of the building and adjacent plaza areas.
- In return for the nominal lease rate and financial consideration, SWAG will work closely with City of Westminster staff to develop and implement arts and cultural activities for the local residents and businesses.

**Expenditure Required:** \$8,000

**Source of Funds:** 2015 WHA Budget

### **Policy Issue**

Should the Westminster Housing Authority continue to lease the Rodeo Market property to the non-profit South Westminster Arts Group (SWAG) for \$10.00 per year and provide an \$8,000 financial contribution to assist in paying for utility costs?

### **Alternatives**

1. Do not lease the premises to SWAG. This alternative is not recommended given the tremendous strides SWAG has made in attracting artistic talent, raising community goodwill, and promoting arts related activities. A failure to lease the premises to SWAG could result in the demise of the organization and potentially have a negative impact on the positive strides made to date.
2. Lease the premises with a required higher financial contribution from SWAG. This alternative is not recommended as SWAG does not currently have the financial capability to incur high operational costs given its current limited access to other resources, particularly funding from the Denver Metro Scientific and Cultural Facilities District.
3. Make the premises available to other prospective tenants at a higher rent. This option may have the potential to generate additional revenue to the WHA; however, pursuit of this option would require SWAG to vacate the premises, which could lead to the organizations demise.
4. Do not lease the premises at this time. This option is not recommended as a vacant space could be viewed as contributing to blight and be more prone to vandalism. Further, the WHA may need to continue to incur utility costs so as to preserve the structural integrity of the premises for future use.

### **Background Information:**

The City of Westminster initiated the South Westminster revitalization efforts in 1997 with the redevelopment of the Westminster Plaza Shopping Center. The South Westminster Strategic Revitalization Plan was thereafter prepared and approved by City Council on January 22, 2001. Significant revitalization success has been made with implementation of the plan having led to the construction of 72 new townhouses and a 12,000 square foot commercial building, several street enhancement projects, and park and library improvements.

As another implementation effort, the City saw an opportunity in pursuing and developing arts and cultural programming as a means of attracting new residents and businesses, while also providing activities and events for the existing neighborhood population. In pursuit of this goal, an effort was made to increase the non-profit capacity in the South Westminster neighborhood to support the City promoting the arts and creating arts business incubator opportunities. The result of this effort was the creation of the South Westminster Arts Group (SWAG), which works with local Westminster artists to create and sustain a community-based arts network.

Concurrent with the creation of SWAG in 2007, the WHA made two properties it owns, the Vehicle Service Center (VSC) building at 7287 Lowell Boulevard and the Rodeo Market property at 3915 West 73<sup>rd</sup> Avenue, available for creating a 50-seat community theater and community arts and cultural center. Accordingly, the VSC was converted into the theater and the interior of the Rodeo Market building was remodeled, and the historic exterior front façade restored, to accommodate a gallery and class space. Upon completion of the improvements, SWAG opened and operated the gallery and conducted classes in the space. SWAG has been operating out of the Rodeo Market building for the past 5 years. SWAG remains instrumental in operating the community arts center and finding theater companies to provide

performances. SWAG's endeavors have also helped to attract artists and art galleries that have opened nearby, which participate in an organized monthly art walk and other arts related programs throughout the year. SWAG also has the responsibility for planning and hosting the annual Fall Orchard Festival and participates in the Spring Jazz Festival, both of which have continued to grow in vendor and attendee participation. SWAG also coordinates and implements the sculpture exhibit in the adjacent park.

Since 2008, SWAG has entered into a lease agreement with the WHA to operate the Rodeo Market facility as a gallery and arts center, and to facilitate utilization of the VSC as a community theater. Since its inception, SWAG has operated as a volunteer-based organization with limited financial capacity, which impedes its ability to incur significant operational costs, including rent and utilities. This limitation was primarily a product of delays in receiving official status as a 501(c) 3 non-profit organization, which is essential to pursuing substantial funding grants. With this known financial limitation, and in an effort to assist SWAG in continuing and growing its successful arts endeavors in the South Westminster neighborhood, the WHA has leased the premises to SWAG annually for a nominal annual fee of \$10.00. In addition, the WHA has assumed responsibility for major maintenance and repair of the facilities, and has provided financial assistance to pay for the cost of water, sewer, electric, and gas utilities.

SWAG continues to work diligently on enhancing its financial capacity. The organization officially obtained its official status as a 501(c) 3 non-profit in 2011, thereby allowing it to pursue more substantial grants from larger organizations, particularly the Denver Metro Area Scientific and Cultural Facilities District (SCFD). SWAG, having complied with the SCFD's required eligibility "waiting period" in 2013, applied for funding eligibility in 2014. SWAG was recently approved by the SCFD as an eligible funding entity, which will allow SWAG to apply for funding in early 2015. SWAG's success in obtaining SCFD funds in 2015 will be premised, in a substantial part, on the City of Westminster and/or WHA's cash financial support provided. While the WHA's contributions through the nominal lease provided to SWAG and payment of the utility costs are significant, the SCFD does not recognize this "in-kind" assistance as part of a local government cash match. Funding from the SCFD would come in October, 2015 should SWAG be successful in receiving an award.

The City has provided limited cash contributions to SWAG, such as honorarium awards for the sculpture show. The WHA, however, has provided a more significant cash grant in past years to cover the cost of utilities which provided an opportunity to address this particular funding dilemma. Providing the utility funding assistance, as mentioned previously, in the form of a grant allows SWAG to show compliance with the local government match requirement of the SCFD. While serving as a cash contribution, the funds remain dedicated and applied towards utility costs. Staff is proposing a grant of \$8,000 to be applied towards utility costs in 2015 that would be distributed to SWAG in four quarterly payments. This approach would provide several benefits to WHA and SWAG including:

- SWAG would receive a cash contribution that could be critical to being successful in leveraging funding from other grant sources, including the SCFD;
- Putting the utilities in SWAG's name would increase its credit worthiness as a non-profit organization;
- The City would be removed from the responsibility of managing and paying the bills; and,
- SWAG would have more of an incentive to keep utility costs in check.

The WHA Board approved the 2015 budget on November 24, 2014, that included funds to provide the \$8,000 grant subject to Board approval of the proposed Cooperation Agreement as proposed.

Staff proposes that the WHA again enter into a lease agreement with SWAG for the year 2015 that includes the following terms and conditions:

- The lease would terminate December 31, 2015;
- SWAG would pay a lease rate of \$10.00 for utilization of the Rodeo Market building and adjacent grounds for the lease period;
- The WHA would be responsible for major maintenance and repairs;
- SWAG would be responsible for paying bills related to water, sanitary, electric, gas, phone and cable;
- SWAG would be responsible for maintaining the adjacent plaza areas on both the east and west side of the building; and,
- SWAG would be required to carry its own liability insurance in addition to the coverage obtained by the WHA through CIRSA

In addition to the lease, Staff is proposing to enter into an Agreement with SWAG relative to utilization of the space and working collectively to strengthen the operational and funding capacity of the organization. Significant provisions in that agreement include:

- Authorizes execution of a lease to SWAG for the Rodeo Market building;
- Provides a position on the SWAG board for a representative from City staff;
- Requires SWAG to prepare and submit a budget and year-ending report to the City;
- Provides for an \$8,000 cash grant from WHA to SWAG to assist in paying for utility costs;
- Permits SWAG to utilize the community theater on the VSC property, at 7287 Lowell Boulevard and 3630 W. 73<sup>rd</sup> Avenue, under separate agreement;
- Requires SWAG to conduct community activities, events and classes in the Rodeo Market building;
- Assigns the responsibility of planning and hosting the annual Orchard Festival to SWAG; and,
- Assigns responsibility to SWAG to coordinate and implement the Sculptures in the Park art competition and installation.

The approval of the proposed lease to SWAG meets the City's Strategic Plan Goal of creating "*Vibrant and Inclusive Neighborhoods.*"

Respectfully submitted,

J. Brent McFall  
Executive Director

Attachments: Resolution  
Cooperation Agreement  
Lease Agreement

WESTMINSTER HOUSING AUTHORITY

RESOLUTION NO. **60**

INTRODUCED BY BOARD MEMBERS

SERIES OF 2015

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**A RESOLUTION  
APPROVING A LEASE BETWEEN THE WESTMINSTER HOUSING AUTHORITY  
AND THE SOUTH WESTMINSTER ARTS GROUP FOR  
3915 WEST 73<sup>RD</sup> AVENUE**

WHEREAS, the Westminster Housing Authority owns property located at 3915 West 73<sup>rd</sup> Avenue (“the Premises”); and

WHEREAS, the South Westminster Arts Group is a non-profit organization dedicated to promoting community arts activities and providing an incubator for artists’ businesses; and

WHEREAS, the South Westminster Arts Group proposes to use the Premises to promote community arts activities, including operation of a community theater, art shows, meetings, classes and programming that support the growth of non-profit cultural activity and artists’ businesses; and

WHEREAS, the attached Agreement and Lease would allow the South Westminster Arts Group to operate out of the Premises.

NOW, THEREFORE, be it resolved by the Board of Commissioners of the Westminster Housing Authority that the Executive Director is hereby authorized to execute and the Authority Clerk to attest the attached Agreement and Lease, or a substantially similar form of Agreement and Lease as approved by the Authority Attorney.

PASSED AND ADOPTED this 26<sup>th</sup> day of January, 2015.

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Chairperson

ATTEST:

APPROVED AS TO LEGAL FORM:

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Secretary

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Authority Attorney

# A COOPERATION AGREEMENT

Between the

CITY OF WESTMINSTER, THE WESTMINSTER HOUSING AUTHORITY

And the

SOUTH WESTMINSTER ARTS GROUP

This Agreement is made and entered into this \_\_\_\_ day of February, 2015, by and between the CITY OF WESTMINSTER (“City”), the WESTMINSTER HOUSING AUTHORITY (“WHA”) and the South Westminster Arts Group (“SWAG”).

WHEREAS, the City believes that arts and cultural programming and activities can be a viable and valuable component of facilitating South Westminster revitalization; and

WHEREAS, the City, has supported the creation of SWAG to promote the arts and culture as a means of facilitating revitalization of the South Westminster community and has a vested interest in the continued success of SWAG; and

WHEREAS, SWAG has been successful in promoting and attracting arts-related activities and businesses into the South Westminster community; and

WHEREAS, the Westminster Housing Authority owns property at 3915 W. 73<sup>rd</sup> Avenue, known as the Rodeo Market Community Arts Center (Exhibit 1), and the City owns property at 7287 Lowell Boulevard that serves as a community theater (Exhibit 2), that can serve to support arts and culture-related programming; and

WHEREAS, the City, WHA and SWAG desire to continue working in partnership to further promote the arts as a means of facilitating revitalization of the South Westminster community.

NOW, THEREFORE, in consideration of the above premises and the covenants, promises, and agreements set forth below, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

## A. GOVERNANCE AND OPERATION.

1. SWAG shall invite a City representative to serve on the SWAG board, and the City shall appoint a City staff person to sit and participate as a board member.

2. The City and SWAG shall work collectively to amend the SWAG bylaws to restructure the SWAG board so as to strengthen its capacity and effectiveness for the purpose of fulfilling its basic mission of promoting the arts and culture as a means of facilitating revitalization of the South Westminster community.
3. SWAG shall prepare and adopt a five year Strategic Action Plan for the years 2016 through 2020 by October 31, 2015.

B. FINANCE AND REPORTING.

1. SWAG shall prepare and submit a 2015 budget to the City by March 30, 2015.
2. As and when board meetings occur, SWAG shall provide the City with a copy of the Board meeting minutes within 15 days after SWAG Board approval or acceptance;
3. SWAG shall prepare and submit an annual report to the City by October 31 of each year detailing the following, at a minimum:
  - a. Board member information including names, roles, and operational responsibilities;
  - b. Membership and volunteer numbers and information pertaining to total volunteer hours served by members, functions served, and residency;
  - c. Existing year budget and adopted upcoming year budget;
  - d. Grant pursuit details including the number of grant applications submitted and to what funding agencies, amount of request and what the grant would fund (i.e. operational expenses, specific projects), and the results of said applications;
  - e. Profit and loss statement for a period beginning November 1 of prior budget year through October 31st of active budget year with detailed explanation of income and expenses;
  - f. Performance assessment and accomplishments relative to the SWAG Strategic Action Plan;
  - g. A detailed synopsis of classes, events and programs offered during the year along with attendance and revenue/cost details;
  - h. Community outreach and organizational collaboration;
  - i. General information on persons or groups participating in SWAG sponsored activities and events, such as participation numbers, participants domicile, age cohorts, and ethnicity, through the distribution of voluntary information cards, so as to assist in identifying recruitment and marketing needs to increase participation and diversity.
4. SWAG shall diligently pursue funding from the Denver-metro Scientific and Cultural Facilities District, by preparing and filing a copy of the application in a timely manner

relative to an eligibility determination and/or funding. The City shall support SWAG in its pursuit of such funding by providing staff assistance, as determined necessary and reasonable by the City, and based upon staff availability.

#### C. FACILITIES AND OPERATIONS.

1. The Westminster Housing Authority (WHA) shall lease the premises at 3915 W. 73<sup>rd</sup> Avenue, hereby referred to as the Rodeo Market Community Arts Center, to SWAG, on the following general conditions, which shall be more fully set forth in the Lease document:
  - a. The premises shall be leased to SWAG for a period not to exceed one year ending December 31, 2015, for the use of arts and cultural-related activities and programming.
  - b. SWAG shall pay a nominal lease rate of \$10.00 per year;
  - c. WHA shall contribute \$8,000.00 as a grant to SWAG that shall be used to assist SWAG in paying for the cost of water, gas and electric utilities for the duration of the lease. Such contribution shall be disbursed in four (4) equal quarterly payments with first payment to be processed by the WHA with thirty (30 days) of execution of this Agreement, and thereafter on March 30, June 30, and September 30 of the year 2015.
  - d. SWAG shall make utility payments in timely manner and remain in good standing with all utility providers. At the end of each quarter, SWAG shall provide the WHA with evidence of utility payments for the preceding quarterly period. Disbursement of remaining grant funds, beginning March 30, 2015, shall not be provide to SWAG until such documentation showing payments has been provided.
  - e. Failure of SWAG to abide by this Agreement may result in immediate termination of such lease.
2. The City shall make the property at 7287 Lowell Boulevard available to SWAG for use as a community theater on a negotiated basis and under a separate lease agreement with prospective users.
3. SWAG shall conduct or host classes and programming in the Rodeo Market Community Arts Center as it pertains to the total mission of the organization.
4. SWAG shall be able to utilize the adjacent park area on an as needed basis in consultation with and subject to terms and conditions established by the Department of Parks, Recreation and Libraries.

5. SWAG shall plan for, coordinate and run the annual Orchard Festival on the grounds of the Rodeo Market Community Arts Center and in the general vicinity of 73<sup>rd</sup> Avenue and Osceola Street in the fall, as follows:
  - a. SWAG and the City shall coordinate and agree on an appropriate date for the festival.
  - b. SWAG shall apply for and obtain all required permits from the City and other regulating agencies;
  - c. The City shall waive any permit and plan review fees required by the City, as applicable and permissible;
  - d. The City shall coordinate with SWAG in providing logistical and equipment related support.
  
6. SWAG shall plan for, recruit artist submissions, and arrange for installation of art sculptures in the park area immediately east and north of the Rodeo Market Community Arts Center.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first above written.

CITY OF WESTMINSTER

SOUTH WESTMINSTER ARTS GROUP

\_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 Debbie Teter  
 Board Chair

ATTEST:

ATTEST:

\_\_\_\_\_  
 City Clerk

\_\_\_\_\_  
 SWAG Secretary

WESTMINSTER HOUSING AUTHORITY

ATTEST:

\_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 Secretary to the Authority

APPROVED AS TO FORM:

By: \_\_\_\_\_  
 City Attorney's Office

EXHIBIT 1

WHA-Owned Rodeo Market Community Arts Center



EXHIBIT 2

City-Owned Community Theater Property



## **LEASE AGREEMENT**

This **Lease** is made between the **WESTMINSTER HOUSING AUTHORITY**, a Colorado public housing authority (hereinafter called "Lessor" or "Authority"), and **SOUTH WESTMINSTER ARTS GROUP**, a Colorado nonprofit corporation (hereinafter called "Lessee" or "SWAG").

Lessor hereby agrees to lease to Lessee, and Lessee hereby agrees to lease from Lessor, the Premises described in Paragraph 1 below, subject to the terms, conditions, and agreements set forth herein below:

- 1. Premises.** The Premises consist of the building and property located at 3915 West 73rd Avenue, Westminster, CO, and as depicted in Exhibit 1 attached hereto and incorporated herein by reference.
- 2. Term and Rent.** Lessor demises the above Premises for a term of one year, commencing 12:00 a.m. on January 1, 2015, terminating 12:00 a.m. on January 1, 2016, or sooner as provided herein (hereinafter, the "Term"), for a nominal rent payment for the Term in the sum of Ten Dollars (\$10.00) per annum, and for other good and valuable consideration, including but not limited to the terms and conditions contained in that certain Cooperative Agreement between the Authority and SWAG, dated January 1, 2015.
- 3. Use.** Lessee shall use and occupy the Premises for activities and functions specifically related to the purpose and mission of the South Westminster Arts Group, as follows:

Allowable uses of the property under this lease agreement include:

- Cultural, educational, and arts-related programming including art shows, art walks, exhibitions, demonstrations, classes, seminars, workshops, special events and festivals offered or sponsored directly by SWAG.
- 3<sup>rd</sup> party short-term rental [less than 24 hours at a time] of facilities for private events, classes, meetings, seminars and workshops, subject to 3<sup>rd</sup> Party rental agreement to be established and administered by SWAG. Rentals which extend greater than a 24 hour rental period require prior approval from the Westminster Housing Authority.
- Community use and neighborhood access.

The Premises shall not be used for other purposes unless approved in writing by the Lessor.

SWAG will maintain records of all programming including both SWAG sponsored programming and all 3<sup>rd</sup> Party rentals of the property and the Westminster Housing Authority shall retain the right to inspect such records at any time.

#### **4. Utilities, Care and Maintenance of Premises.**

a. Lessee's responsibilities: Lessee acknowledges and accepts the Premises in their as-is condition. Lessee shall, at its own expense and at all times during the Term of this Lease, maintain the Premises in good and safe condition, and shall surrender the same, at termination hereof, in as good condition as received, normal wear and tear excepted. In addition, Lessee shall be responsible for:

- Trash removal.
- paying the cost of utilities as defined in item 8.
- the routine care and maintenance of the interior of the Premises of a housekeeping nature, including custodial and janitorial services, normal and reasonable cleaning, and the replacement of all

consumable or expendable items such as light bulbs, cleaning, bathroom and office supplies and all items brought into the Premises by the Lessee.

- keeping the exterior of that portion of the Premises constituting the lot at 3915 West 73rd Avenue clean and free of weeds, including the plaza area to the west of the building as shown in Exhibit 1, attached hereto.

b. Lessor's responsibilities: The Lessor shall be responsible for all general repairs relative to the principal structure of the Premises, including roofing, plumbing, mechanical and electrical equipment. Minor interior repairs, which do not exceed \$500 in cost, can be submitted to the City of Westminster Building Operations and Maintenance Department and will be handled subject to the availability of City staff. Minor interior repairs exceeding \$500 in cost shall be made by Lessor only upon approval of the Executive Director of the Authority.

## **5. Alterations.**

a. Interior. Lessee shall not, without first obtaining the prior written consent of Authority staff, make any interior alterations, additions, or improvements to the principal structure of the Premises. Any such alterations, additions, or improvements approved by, or installed by, the Authority becomes fixtures appurtenant to the Premises.

b. Exterior. Lessee shall not make any changes to the exterior of the Premises. In particular, the south elevation is a historic restoration funded in 2009 by the State Historical Fund. As a result of this funding and the local historic landmark designation, no alterations, including signage, may be made to any part of the exterior of the building without permission from both the Westminster Historic Landmark Board and the State Historical Fund.

**6. Ordinances and Statutes.** Lessee shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Premises, occasioned by or affecting the use thereof by Lessee.

**7. Assignment, Subletting, and unauthorized Use.** Lessee shall not assign this Lease, sublet, or allow utilization for purposes other than arts, educational, or cultural programming or activities, any portion of the Premises without prior written consent of the Lessor, which shall be granted or refused in Lessor's sole discretion. Any such assignment, subletting or impermissible utilization without Lessor's consent shall be void and, at the option of the Lessor, grounds for Lessor's immediate termination of this Lease.

**8. Utilities.** The Lessee shall provide and pay for utility charges as they become due, including those for heat, electricity, water and sewer for the 2014 year. All applications and connections for other services desired by Lessee for the Premises shall be made in the name of Lessee only, and Lessee shall be solely liable for such charges as they become due, including those for cable, Internet, alarm and telephone services. Pursuant to that certain Cooperative Agreement between the Authority and SWAG, dated February \_\_\_\_, 2014, Lessor may provide grant funding to offset some of Lessee's utility charges, but this in no way relieves Lessee of its obligations hereunder.

**9. Entry and Inspection.** Lessee shall permit Lessor or Lessor's agents to enter upon the Premises at reasonable times and upon reasonable notice, for the purpose of inspecting the same, and will permit Lessor at any time within sixty (60) days prior to the expiration of this Lease, to place upon the Premises any usual "To Let" or "For Lease" signs, and permit persons desiring to lease the same to inspect the Premises thereafter.

**10. Possession.** If Lessor is unable to deliver possession of the Premises at the commencement hereof, Lessor shall not be liable for any damage caused thereby.

**11. Indemnification of Lessor.** Lessor shall not be liable for any damage or injury to any person or property occurring on the Premises during the Term of this Lease. Lessee agrees to indemnify and save and hold Lessor harmless from any claims for such damage or injury, no matter how caused, except to the extent such damage or injury was the direct and proximate result of Lessor's negligent act or omission, provided, however, that nothing herein shall be deemed or construed as a waiver by Lessor of any of the protections or limitations against liability to which Lessor may be entitled under the Colorado Governmental Immunity Act. Lessee may satisfy its obligations pursuant to this paragraph by assuming the defense of and liability, if any, for any such claim brought against the Lessor, and retaining for such defense qualified legal counsel reasonably acceptable to the Authority.

**12. Insurance.**

a. Lessee, at its expense, shall maintain comprehensive commercial liability insurance, including coverage for bodily injury and property damage, insuring Lessee and naming Lessor as an additional insured with minimum coverage as follows: \$1,000,000 per occurrence. The insurance shall include coverage for contractual liability. Additional insurance shall be obtained in the event any aggregate limitations result in per occurrence coverage of less than \$1,000,000.

b. Prior to taking possession of the Premises pursuant to this Lease, Lessee shall provide Lessor with a Certificate of Insurance showing Lessor as additional insured. The Certificate shall provide for a ten-day written notice to Lessor in the event of cancellation or material change of coverage. To the maximum extent permitted by insurance policies that may be owned by Lessor or Lessee, Lessee and Lessor, for the benefit of each other, waive any and all rights of subrogation that might otherwise exist.

**13. Eminent Domain.** If the Premises or any part thereof or any estate therein, or any other part of the building materially affecting Lessee's use of the Premises, shall be taken by eminent domain, this Lease shall terminate on the date when title vests pursuant to such taking.

**14. Destruction of Premises.** In the event that the Premises or any part of the building in which the Premises may be situated is damaged or destroyed by any cause to an extent that renders the Premises unsafe or unusable for Lessee's purposes, either Lessee or Lessor may terminate this Lease forthwith. In no event shall the Lessor have any obligation to repair or replace the Premises in the event of any such damage or destruction and Lessee's sole and exclusive remedy in the event of such damage to or destruction of the Premises or the building in which it is located is the termination of this Lease.

**15. Lessor's Remedies on Default.** If Lessee defaults in the performance of any of the covenants or conditions hereof, Lessor may give Lessee notice of such default and if Lessee does not cure any such default within ten (10) days, after the giving of such notice (or if such other default is of such nature that it cannot be completely cured within such period, if Lessee does not commence such curing within such ten (10) days and thereafter proceed with reasonable diligence and in good faith to cure such default), then Lessor may terminate this Lease on not less than twenty (20) days' notice to Lessee. On the date specified in such notice, the Term of this Lease shall terminate, and Lessee shall then quit and surrender the Premises to Lessor, without extinguishing Lessee's liability. If this Lease shall have been so terminated by Lessor, Lessor may at any time thereafter resume possession of the Premises by any lawful means and remove Lessee or other occupants and their effects. No failure to enforce any Term shall be deemed a waiver.

**16. Taxes.** Lessee shall be solely responsible for the payment of any property or other taxes that may arise as a result of Lessee's use of the Premises. The Lessee covenants and warrants to Lessor that Lessee is exempt from all federal, state and local taxes and further, that Lessee shall take no action to cause the

loss of its exemption from said taxes. Lessee further covenants and agrees with the Lessor that in the event Lessee shall lose its exemption from taxes for any reason, Lessee shall timely pay all and any taxes accruing as a result thereof. Lessee further covenants and agrees to indemnify and hold Lessor harmless against any claims or judgments for unpaid taxes resulting from Lessee's use of the Premises.

**17. Attorneys' Fees.** In case suit should be brought for recovery of the Premises, or for any sum due hereunder, or because of any act which may arise out of the possession of the Premises, by either party, the prevailing party shall be entitled to all costs incurred in connection with such action, including reasonable attorneys' fees. For any controversy or claim arising out of or relating to this Lease, or the breach thereof, the parties agree to attempt to mediate any such disputes in good faith prior to filing any action against the other.

**18. Waiver.** No failure of Lessor to enforce any Term hereof shall be deemed to be a waiver.

**19. Heirs, Assigns, Successors.** This Lease is binding upon and shall inure to the benefit of the heirs, assigns and successors in interest to the parties.

**20. Subordination.** This Lease is and shall be subordinated to all existing and future liens and encumbrances against the Premises.

**22. Entire Agreement.** Except as provided in Paragraph 2 above, this Lease constitutes the entire agreement between the parties concerning the Premises and may be modified only by a written amendment signed by both parties.

**23. Survival.** Paragraphs 8, 11, and 15 through 20 inclusive shall survive any termination of this Lease by either Lessee or Lessor.

Signed as of this 1st day of January, 2015.

**WESTMINSTER HOUSING AUTHORITY**

By: \_\_\_\_\_  
\_\_\_\_\_

Attest: \_\_\_\_\_  
                  Authority Clerk

**SOUTH WESTMINSTER ARTS GROUP**

By: \_\_\_\_\_  
                  Debbie Teter, Chair

Attest: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Authority Attorney

**EXHIBIT 1**

**Location Map -- 3915 W. 73rd Avenue**

